

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 901 of 2002

With

CIVIL REVISION APPLICATION No. 902 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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BHUPATBHAI TAPUBHAI VALA

Versus

UNITED INDIA INSURANCE CO. LTD

Appearance:

MR ASHISH M DAGLI for Petitioner No. 1

MR B.P. NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 23/08/2002

ORAL JUDGEMENT

Heard Mr. Ashish Dagli, ld. advocate appearing
for the applicant-revisionists and Mr. B.P. Nanavati,
ld. advocate appearing for the respondent-insurance
company. The applicants have filed these Civil Revision
Applications under Section 115 of the Civil Procedure

Code challenging the order passed by the Motor Accident Claims Tribunal, Amreli, below Exh.16 in M.A.C.Petitions. No. 1040 and 1041 of 2000 respectively.

2. The case of the applicant-revisionists is that they have filed MACP Nos. 1040 and 1041 of 2000 before the Motor Accident Claims Tribunal, Amreli, for seeking compensation on account of accident occurred on 14.11.2000. The said two petitions were placed before Lok Adalat and ultimately on 14.4.2001 the matter was amicably compromised and settled between the parties and an amount of Rs. 40,000/= was awarded to each of these two applicant-revisionists. Out of this amount, the Tribunal has passed an order to the effect that the amount of Rs. 23,000/- be put in the fixed deposit and Rs. 15,500/= be paid to each of the applicants in cash. It appears from the record that the applicant-revisionists thereafter moved applications before the MACT on 28.12.2001 seeking permission to withdraw the amount of Rs. 23,000/=. However, the said applications were rejected by the MACT on 29.12.2001. Against the said order of rejection, the applicant-revisionists filed Special Civil Applications No. 1950 of 2002 and 1954 of 2002 respectively before this Court and this Court vide its order dated 8.4.2002 had remanded the matters to the Tribunal to pass appropriate orders in accordance with law after considering the evidence on record and at the time of passing the final order the Tribunal should give appropriate reasons for coming to any conclusion.

3. Pursuant to the said order, the matters came up for hearing applications dated 27.5.2002 before the MACT and while disposing of the said applications on 7.6.2002, the MACT has observed that as per the directions given by this Court in latest pronouncements, 40% of the amount deposited by the Insurance Company was given to the applicants in cash by A/c. Payee Cheque and remaining 60% amount was deposited in F.D.R. in the name of the applicants on 19.7.2001 for a period of 5 years. It was further observed that the disbursement order passed was just and proper and hence the said order was not disturbed by the Motor Accident Claims Tribunal. In the second round the matters were decided pursuant to the directions given by this Court in the aforesaid Special Civil Applications.

4. Mr. Dagli, ld. advocate appearing for the applicant-revisionists has submitted that when the matters were finally compromised and settled in the Lok Adalat, there is no question of further proceeding

pending against the said settlement. The idea of settlement was that the applicants were expecting to receive the amounts immediately and for that reason only though the claims in the petitions were made to the extent of Rs. 1,00,000/=, the matter was settled at Rs. 40,000/= only. It was further submitted that the applicants are residing in Kachha house and the said house is in dilapidated condition and accordingly the applicants want to demolish and construct new house and osari and with a view to meet the said expenses the amount lying in the fixed deposit was required to be withdrawn. In support of his contentions, the applicants have also produced the estimate and the certificate from Dharangi Gram Panchayat.

5. Considering the averments made in the application and also further considering the evidence produced, I am of the view that the Claims Tribunal has not correctly appreciated the facts stated, and the evidence led by the applicants inspite of the fact that this Court has directed to consider the same, while disposing of the abovereferred Special Civil Applications. I am, therefore, of the view that interests of justice would be served if the applicants in both the Civil Revision Applications are permitted to withdraw an amount of Rs. 15,000/= in each of these two revision applications. The Claims Tribunal is, therefore, directed to encash the fixed deposit in question and allow the applicants in each of these revision applications to withdraw Rs. 15,000/= and invest the remaining amount of Rs. 8,000/= in each of these two matters in fixed deposit for a period of 5 years. However, the applicants would be permitted to withdraw the interest which is to be accrued on the said amount of fixed deposit.

6. With the aforesaid directions, the applications are partly allowed. Rule is made absolute to the above extent with no order as to costs.

rmr. [K.A. Puj, J.]